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LYNCH LAW: ITS CAUSES AND REMEDY.

BY HIS EMINENCE, CARDINAL GIBBONS.

“ WHOSOFVER sheddeth man’s blood, his blood shall be shed.” It is a law of all Christian and civilized nations, based on the Mosaic ordinance, that all deliberate murderers and other atrocious criminals shall expiate their transgressions by the death penalty. The blood of the innocent victim, like the voice of the blood of Abel, calleth to heaven for vengeance. (Gen. iv.)

But private individuals, how exalted soever may be their station and influence in the community, or how grievous soever the offence, cannot constitute themselves the agents for punishing the guilty. A claim of this kind would destroy or imperil security of life, and lead to indiscriminate bloodshed.

The prerogative of exacting life for life, and blood for blood, is vested exclusively in the public authorities, who are charged with maintaining the peace and good order of the commonwealth. The power of the civil functionaries and the source of their authority are thus stated by the Apostle of the Gentiles: “ The civil magistrate beareth not the sword in vain. For he is God’s minister, an avenger to execute wrath upon him that doth evil.” He acts in the capacity of the representative and delegate of God, Who has the power of life and death over all His creatures.

But even civil rulers are forbidden to make an arbitrary use of their prerogatives, at least in times of peace. Their powers are strictly defined. They can pronounce sentence of death only after a judicial verdict has been rendered. The Constitution of the United States expressly provides that no man may be condemned to death till declared guilty after a judicial trial.

The Fifth Amendment to the Constitution declares that “ no person shall be deprived of life, liberty or property, without due process of law.” This beneficent clause is most comprehensive

in its scope, for it guarantees a fair trial to every culprit, no matter how atrocious his crime, or humble his situation in life.

All executions by Lynch Law are therefore a direct and flagrant violation of the Constitution. Every lover of his country's fair name must feel a sense of shame and sorrow when he is forced to admit that the murder of criminals by popular violence is of frequent and almost weekly occurrence in the United States. Nor are these acts of vengeance confined to one particular section of the land.

According to a report by a responsible writer, whose statements have not been questioned, there have been two thousand eight hundred and seventy-five lynchings from 1885 to 1903, inclusive; and there are but five States in the Union in which these illegal acts did not occur. The States exempted from the crime of lynching are Massachusetts, New Hampshire, Vermont, Rhode Island and Utah.

Lynching is a blot on our American civilization. It lowers our civic and moral standard in the estimation of foreign nations; it is a standing insult and menace to the majesty of the law of the land; it usurps the sword of authority from the constituted powers, and places it in the hands of a reckless and irresponsible mob.

It arouses a bloodthirsty spirit in man; it inflames the savage element in our nature. You might as well attempt to chain the lightning, and hush the thunderbolt of heaven, as to repress a crowd, once their fury is excited to wreak vengeance on an alleged malefactor.

I admit that there are exceptional times and circumstances, when summary executions may be tolerated and condoned; when, for instance, a territory is suddenly occupied by a mixed and heterogeneous population, and is in a formative state; when the civil law and the usual machinery and appliances of a stable government are not yet established. On occasions like this, the recognized leaders of the people may punish notorious criminals in the interests of social order.

Upwards of fifty years ago such a state of things existed in California, when gold was first discovered in that region, and when adventurers flocked thither from various parts of the globe.

A Vigilance Committee was organized to punish outlaws without due forms of law. But it is manifest that this method of

chastising offenders cannot be tolerated in a State where the courts of justice are in free operation.

Lynchings, and all arbitrary deeds of murder by irresponsible persons without legal proceedings, have been the fruitful source of feuds and sanguinary conflicts in some sections of our country. We are all familiar with the bloody struggles carried on for a generation between two families on the borders of Kentucky and West Virginia. The partisans of one clan began by murdering a member of the other to avenge some grievance. The aggrieved family retaliated by killing one or more of the other tribe; and they in turn made reprisals by the massacre of some of their adversaries. And so the contest has been kept up almost to the present day, until both clans have been well-nigh exterminated.

How much bloodshed and violence would have been spared if the contending parties had recourse to the established tribunals, or had observed the law of forgiveness of injuries inculcated by the Founder of the Christian religion!

What aggravates the crime of Lynch Law is the circumstance that not unfrequently it sentences to death an innocent person, while the guilty party escapes. Cases of mistaken identity and ungrounded suspicion are liable to occur when we consider the excited frame of mind of the unhappy victim of violence and lust, and the eagerness of an outraged community to avenge an atrocious and brutal crime. In May, 1902, the wife of a station-master was found murdered in a small town in South Carolina. Three negroes were suspected of the crime. They were hanged to trees and their bodies were riddled with bullets. Some time afterward, the husband of the murdered woman, overcome by remorse, confessed on his death-bed in the presence of his physician and several witnesses that he was the murderer, and that the accused negroes were absolutely innocent of the deed.

If it is a grave miscarriage of justice to allow the guilty to go unpunished, it is far more criminal to deprive of life an unoffending man. The legalized murder of a guiltless individual is an act of violence to Justice herself. Better that ten guilty men should escape than that one man should unjustly suffer.

Unfortunately, also, the lynching of one individual is sometimes attended by the accidental and promiscuous slaying or wounding of bystanders in the conflict which arises between the mob and the officers of the law.

If Lynch Law were substituted for the Law of the Land, no citizen would be secure from violence or death. The leading men of the community, if not restrained by conscience, would wield an influence like that which was swayed by the Barons of the Middle Ages, who could assassinate with impunity every harmless commoner that stood in the way of their lawless ambition or lascivious passions. They could easily trump up charges against the object of their hatred or malice, and suborn a hired band of retainers to avenge a fancied crime.

Another deplorable result of lynching is that public sympathy is sometimes withdrawn from the innocent victim of lust and murder, and is transferred for the time being to the brute who outraged and killed her. Her defenceless condition, her agonies and cries for help, her vain entreaties, her dishonor worse than death, culminating often in torture and murder in order to cover the crime,—all this horrible picture fades from view and is almost forgotten, while the iniquity of the human fiend is condoned or palliated on account of the lawless manner in which his crime was expiated. He often becomes the hero of the hour, and is regarded by some even as a martyr. And, while the malefactor's crime is almost lost sight of, and he becomes the object of morbid pity, popular denunciation falls on the heads of those who participated in his summary execution.

Had the wretch expiated his offence by the ordinary process of the civil courts, his trial, conviction and execution, attended with all the solemnity of judicial proceedings, would have appeased the righteous indignation of the community, would have vindicated the majesty of the law, and would have served as a terror and salutary warning to evil-doers.

If, indeed, the illegal and violent infliction of the death penalty on criminals had a deterrent effect on other evil-disposed persons, and acted as a warning to them, that circumstance, while not justifying Lynch Law, might at least offer some excuse or palliation for its exercise. But experience shows that it rather increases instead of diminishing the calendar of crime. Far from terrorizing the colored race who are the usual sufferers from hasty executions, it inflames them with indignation, and incites them to perpetrate deeds of violence on the weaker sex as much from a spirit of revenge, and from a triumph in the humiliation of their victims, as from a desire to gratify their animal passions.

Let us now examine into the principal grounds of excuse for the exercise of Lynch Law, and suggest a remedy for this social evil.

One of the causes of hasty and violent executions without the forms of law is the needless and often irritating delay in bringing a notorious criminal to the bar of justice, and the infliction of punishment inadequate to the enormity of the offence.

An infamous negro, named George White, violated and then butchered almost beyond recognition a young lady in Delaware. A prompt trial of the self-accused malefactor was reasonably expected to appease the public, exasperated as they were by the horrible outrage. But they were grievously disappointed by the announcement that the culprit would not be tried for three months, and the result was a summary execution attended with the most revolting circumstances.

It appears that this same White had been twice before convicted for rape in Pennsylvania. If he had received a due measure of penalty for his former transgressions, he would not have been let loose to prey like a wolf on other folds; and, if he had been accorded a speedy trial in Delaware, the community would have been spared the awful scenes which occurred when he was burned at the stake.

The difficulty of procuring a sentence of conviction against the accused after he is tried, and the frequency with which noted criminals are known to escape the meshes of the law, especially in jury trials, have created in the public mind a distrust of our criminal jurisprudence, and offer an incentive and temptation to have recourse to the wild justice of revenge. In 1900, the Mafia, a lawless secret society of Sicilian origin, spread terror among the inhabitants of New Orleans by their frequent deeds of bloodshed. The members of the society considered it dishonorable to seek redress by appealing to the established courts of justice, but always avenged a wrong by secret murder. They assassinated the chief of police at his own door. Nine members of this infamous band were arrested and tried for the murder of the brave and popular guardian of the law. They were all acquitted.

Some of the leading citizens, incensed at the miscarriage of justice, shot down these nine members of the Mafia; and, how much soever we may reprobate the drastic remedies applied by the citizens, it is gratifying to say that, since these violent meas-

ures were adopted, the hydra-headed monster has never again lifted its head in the Crescent City.

Yet another crying evil and incentive to lynching is the wide interval that so often interposes between a criminal's conviction and the execution of the sentence, and the defeat of justice by needless procrastination. Human life is indeed precious and sacred, but the effort to guard it has gone beyond reasonable bounds. It is blessed to be merciful, but mercy should not be exercised at the expense of justice and social order. Misplaced clemency often works infinite harm to the community.

Of late years, the difficulty of carrying out the judgment of the court (in murder trials especially) has greatly increased from the widened application of pleas in bar,—notably that of insanity. When a conviction has been reached, innumerable obstacles generally stay the execution. The many grounds of exception allowed to counsel, the appeals from one court to another of higher jurisdiction, involving an enormous expense to the commonwealth, the long periods of time intervening between the terms of the lower and higher courts, the impossibility of recalling the original witnesses by reason of their death or removal to distant parts of the country, the apathy or fading interest of the friends of the prosecution, the untiring efforts of the advocates and friends of the accused, the facility with which signatures for pardon are obtained, with the final application for mercy to the Governor,—all these circumstances have combined to throw around the transgressor an extravagant protective system, and have gone far to rob jury trials of their substance and efficacy.

When the crime of the accused has been manifestly proved, and no extenuating circumstances can be advanced, the lawyers for the defence have often recourse to the plea of insanity as a last resource. Medical experts are always available to testify to the moral irresponsibility of the culprit, bewildering the jury by their technical phrases. This subterfuge not unfrequently succeeds in defeating the ends of justice, though the sanity of the guilty party had never before been called in question.

I can recall a recent instance in which a man was convicted of a heinous crime. The insanity dodge was successfully availed of. He was committed to an asylum, from which he soon afterward escaped with the aid of his relatives, and no effort has since been made to rearrest him at his home.

A sovereign remedy for the suppression of lynching and for the restoration of the law's supremacy is found in a speedy trial and conviction of the accused, if he is found guilty, followed by the rigorous execution of the sentence.

It would be a great blessing for society if our lawmakers were to revise the criminal code now in force, and to sweep away, or at least considerably diminish, the barriers which interpose between the crime and its punishment. A prompt execution of the verdict would strike terror into evil-doers, and satisfy the public conscience.

But it is far more merciful to stop crime than to punish it by legislation. It is better to remove a cause than to repair its evil effects. From data before me, I infer that about seventy per cent. of those who perished by lynching in the Southern States between 1885 and 1903 belonged to the colored population. If the deep-rooted antipathy between the white and the black races were removed, or assuaged, these violent executions would be considerably diminished.

This blessed result can be accomplished only by submission to the teachings of the Gospel, which proclaims the equality of all men before God, with Whom "there is neither Gentile nor Jew, circumcision nor uncircumcision, Barbarian nor Scythian, bond nor free, but Christ is all in all."

If the American people were religiously impressed with the Gospel truth that we are all, without distinction of color, children of the same God, brothers of the same Christ, that we were all redeemed by His precious blood, that we are all descended from the same aboriginal parents, that we were created for the same eternal destiny, that Christ is our "Peacemaker, breaking down the wall of partition" which divides nation from nation, tribe from tribe, so that we might be all one family guided by the supreme law of charity,—if we were all controlled by these principles, then, indeed, the reign of vengeance would exercise less sway among us.

In the two lower counties of Maryland, the white and the black populations are nearly equally divided, and the great majority of both races profess the Catholic religion. I have had frequent occasions to visit these counties in the exercise of the sacred ministry.

Before divine service began, I have been delighted to observe

the whites and the blacks assembled together in the church grounds, and engaged in friendly and familiar intercourse. Then they repaired to the church, worshipping under the same roof, kneeling before the same altar, receiving the Sacrament at the same railing, and listening to the words of the same Gospel.

This equal participation in spiritual gifts and privileges has fostered the feeling of good-will and benevolence, which no human legislation could accomplish. I never witnessed anywhere else the white race so kind and considerate to the colored, nor the colored race so respectful and deferential to the white; for there was no attempt in these weekly gatherings to level the existing social distinctions. As far as my memory serves me, the records of these two counties have never been stained by a single instance of an outrage and a lynching.

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